THE HON'BLE MR JUSTICE K.C. BHANU

On Thursday, the fifteenth day of September

Two thousand and five.

W.P. No.10962 of 2005

I. Bapi Raju.

…….Petitioner.

And

The Commissioner for Endowments, Government of A.P., Hyderabad and tohers.

……Respondents.

O R D E R:

The present writ petition is filed to declare the impugned action of the respondents in initiating proceedings dated 11.4.2005 for eviction of the petitioner from the extent of Ac.3.39 cents in Sy.No.184, Dwarapudi village, Mandapeta Mandal and further action in not considering the representation made by the petitioner dated 28.4.2005 as per Section 82 of A.P. Endowments Act, as illegal.

The learned counsel for the petitioner contended that the determination shall be made by the executive authority, but not by the Assistant Commissioner of Endowments and therefore, necessary direction may be given to the Assistant Commissioner of Endowments-respondent No.2 to determine the issue involved.

On the other hand, the learned Government Pleader for Endowments representing on behalf of the respondents 1 and 2, opposed the petitioner's contention on the ground that since the petitioner is in possession of Ac.3.39 cents, there is no question of again determining the the application of the writ petitioner.

The standing counsel appearing on behalf of the 3rd respondent also contended that only determination of the land, whether it is dry or wet land, the executive authority is competent to decide the same, because the land belong to the temple.

The Assistant Commissioner-2nd respondent has to take appropriate decision, whether the petitioner is in possession of the required extent of the land under Section 82 of the A.P.Endowments Act (for short 'the Act'). Though, the executive authority came to the conclusion that the petitioner is cultivating the wet land, but at the same time, the Assistant Commissioner is the competent authority to decide wiether the person is in the possession of land more than Ac.2.50 cents of wet land, so as to come within the definition of landless poor person under Section 82 of the Act. Admittedly, the petitioner does not own any land, but he is cultivating the land of the 3rd respondent. Whether the extent of land, which is under cultivation of the petitioner, is a dry land or wet land is the factor to be decided and determined by the competent authority.

Hence, without entering into the merits of the case, the writ petition is disposed of directing the 2nd respondent to take appropriate decision within a period of three weeks from the date of receipt of the copy of this order. Since the status-quo order is already in existence, it is extended till the decision taken by the 2nd respondent (The Assistant Commissioner of Endowments, Danavaipet). No costs.

Justice K.C.BHANU.

15th September 2005.

BCS